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Report of the Independent Expert on the situation of human rights in Mali*

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the report of the Independent Expert on the situation of human rights in Mali, Suliman Baldo, which covers the period from 1 April to 30 November 2016. The report is based on the information made available to the Independent Expert during his seventh visit to Mali, from 7 to 16 November 2016, by the Government of Mali, the United Nations Multidimensional Integrated Stabilization Mission in Mali and other sources, including civil society organizations.

* The present report was submitted after the deadline in order to reflect the most recent developments.

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Report of the Independent Expert on the situation of human rights in Mali

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I. Introduction

1. The present report is submitted in accordance with Human Rights Council resolution 31/28, adopted on 24 March 2016, in which the Council renewed the mandate of the Independent Expert on the situation of human rights in Mali for one year with a view to assisting the Government of Mali in its efforts to promote and protect human rights and requested him to submit a report to the Council at its thirty-fourth session.

2. In the present report, which covers the period from 1 April to 30 November 2016, the Independent Expert on the situation of human rights in Mali, Suliman Baldo, gives an account of his seventh visit to Mali, from 7 to 16 November 2016. The report is based on information collected from government authorities, United Nations bodies operating in the country, national and international organizations dealing with humanitarian issues and human rights, as well as on the testimonies of associations and families of victims of serious violations of human rights and international humanitarian law.

3. The Independent Expert wishes to thank the Government of Mali for facilitating his stay in the country and granting him access to all the national and local officials that he asked to meet. During his seventh visit, as with the previous visits, the Independent Expert met with high-ranking officials, including the Minister of Justice and Human Rights, Keeper of the Seals, the Minister of Defence and Veterans' Affairs, and the Minister for the Advancement of Women, Children and the Family.

4. The Independent Expert also met the members of the Truth, Justice and Reconciliation Commission and the Chairperson of the new National Human Rights Commission. He travelled to Timbuktu and Goundam, where he met with civilian authorities and victims' associations.

5. The Independent Expert held talks with representatives of civil society, associations of victims in northern Mali and a youth association, as well as with representatives of the Platform and the Coordination des mouvements de l'Azawad (CMA), the diplomatic corps and United Nations bodies.

6. The Independent Expert wishes to thank Mahamat Annadif, Special Representative of the Secretary-General for Mali and Head of the United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA), Koen Davidse, the Deputy Special Representative of the Secretary-General for political affairs, and the staff of the Human Rights and Protection Division of MINUSMA. The technical and logistical support from the United Nations system in Mali was essential for facilitating and ensuring the success of the Independent Expert's seventh visit.

II. General situation in the country

A. The political situation

7. Since his sixth visit in March 2016, the Independent Expert has noted that the delay in the implementation of the peace agreement, due to the mistrust between the signatory parties, is causing much anxiety and contributing to the creation of significant difficulties in the political and security areas. These difficulties in turn raise new obstacles to the implementation of the agreement, in particular by delaying the re-establishment of public authorities in affected regions and the implementation of the operational mechanism of coordination and joint patrols.

8. The reporting period was marked by defections from signatory armed groups, the Groupe d'autodéfense des Touaregs Imghad et leurs alliés and the Coordination des mouvements de l'Azawad (CMA), and by bloody clashes between the two groups in the regions of Kidal and Gao in July, which often assumed an ethnic dimension and resulted in serious human rights violations.

9. In June, the Malian Government, the Platform and the CMA reached an agreement on the issue of interim authorities for the regions of Timbuktu, Gao, Ménaka, Taoudénit and Kidal. However, the Independent Expert was informed that the people of Timbuktu and Gao had repeatedly expressed their objection to being administered by former members of armed groups. Moreover, the installation of interim authorities has been delayed due to the discontent of some signatory movements at the allocation of a majority of posts to the CMA.

10. The Independent Expert monitored the municipal elections that took place on 20 November 2016, three years late, with a view to making sure that human rights were respected in the process. This monitoring focused on possible human rights violations and abuses related to the elections, including threats, arrests, and the kidnappings and killings of politicians, voters, campaign staff and members of the media. At least six incidents targeting election officials and candidates were documented prior to the 20 November elections, while in the Mopti region the campaign manager of the Party for Solidarity and Progress was killed at his residence by six unidentified armed men on motorcycles.

11. Although the elections were generally peaceful, some incidents were recorded in which polling stations were directly targeted in the regions of Timbuktu, Mopti and Ségou. In Ségou, unidentified armed individuals reportedly raided polling centres in several villages, seizing electoral materials and stealing motorcycles belonging to electoral workers. In another case, voters and a leading candidate received death threats warning them against participation in the vote. In other regions, polling stations in at least seven localities were closed for security reasons following targeted attacks and in the light of security threats posed by unidentified armed individuals. In the Timbuktu region, five Malian soldiers were killed when armed men attacked a convoy carrying ballot boxes after the elections.

B. The security situation

12. The Independent Expert notes that the state of emergency in force in Mali, which was due to expire in August, has been extended by eight months until 29 March 2017. He is concerned about growing insecurity in the north and the centre of the country, as well as the increasing frequency of security incidents in the vicinity of Bamako. He notes that on the first day of his mission, 6 November, a MINUSMA convoy was attacked in the Mopti region by an armed group, who detonated an improvised explosive device before opening fire on the vehicles. Two civilians and one peacekeeper were killed in the incident, while eight other peacekeepers were injured. On 5 October, three members of the Malian Armed Forces were killed and five injured in an ambush, later claimed by Ansar Eddine, that took place on the Douentza-Bambara Maoudé road.

13. On 7 November, nine unidentified armed individuals attacked an NGO vehicle near Timbuktu. During the attack, two passengers were beaten and stripped of their possessions by the assailants, who also opened fire on another vehicle, killing three and seriously injuring one of the occupants.

14. The Independent Expert is particularly concerned about the gradual infiltration of extremist groups advocating a radical form of Islam in various parts of central and southern Mali, notably Mopti, Gao and Ségou, with the potential to move further south. On 2 September 2016, the village of Boni in the Mopti region fell under the control of armed individuals for a period of 24 hours. On 14 September, armed men on motorcycles arrived at the village of Akabar in Ménaka and ordered the vendors there to stop smoking because cigarettes were prohibited under sharia law. The men threatened to come back at regular intervals to ensure that sharia law was respected and to administer severe punishments to any vendors who did not comply with this rule. Such groups have also insisted that men and women be separated in all activities, including in schools and at water wells, and that restrictions be imposed on women in public places.

15. The Independent Expert is also troubled by numerous security incidents in the Bamako area, which have a negative impact on the human rights situation. On 7 November in Banamba, 130 kilometres from Bamako, an armed group of 29 suspected jihadists

attacked a gendarmerie post, from which they stole a car and five motorcycles. They then set fire to the bank, after failing to open its safe. The group also attacked the prison, where they released 21 detainees. A prison guard has been missing since the attack. The gendarmerie have opened an inquiry into the incident.

16. The widespread insecurity in almost all localities in the north and in some parts of Mopti has created a vicious cycle, which holds judges and other criminal justice actors at a distance, an outcome that favours impunity and leaves the population highly vulnerable. From March to September 2016, the Human Rights and Protection Division of MINUSMA recorded 131 attacks against civilian targets (58 in Timbuktu, 27 in Gao, 29 in Mopti, 10 in Ménaka, 4 in Kidal, 2 in Ségou and 1 in Bamako). These attacks have a negative impact on the overall security and the human rights situation in general. Most instances consist in armed robberies, in which public passenger vehicles, motorcycles, livestock and miscellaneous goods are stolen from traders and individuals. Violations of personal rights often take the form of ill-treatment and summary executions perpetrated against vehicle occupants during armed robberies. The Independent Expert also received information regarding a case of rape during the robbery of a public passenger vehicle by unidentified armed men in Niafounké *cercle*. The Timbuktu region is that which has been most affected by security incidents, especially the areas of Gossi, Bambara Maoudé and Léré in the *cercles* of Gourma-Rharous and Niafounké, and the highways in Goundam *cercle*.

17. Between April and September 2016, the Human Rights and Protection Division documented a total of 24 asymmetric attacks against civilian or military targets, 23 of which targeted the United Nations personnel and facilities and operation Barkhane military personnel, and 1 civilian. These attacks typically involve the use of mortars, the planting of mines and the detonation of explosive devices. Six deliberate attacks were carried out against the personnel and facilities of MINUSMA, two of which were claimed by Ansar Eddine, two attributed to the CMA and two others to the Platform. The 24 attacks resulted in a total of 46 victims (35 military, including 15 dead and 20 injured; and 11 civilians, including 3 dead and 8 injured).

18. In addition, 40 attacks were carried out against Malian Armed Forces and symbols of the State, resulting in 147 victims (142 military, of which 55 were killed and 81 wounded, and 5 civilians, of which 1 was killed and 4 were injured, including a woman and a child). These attacks, using mines and other explosives, mainly targeted checkpoints, escorts, vehicles and agents working for the Malian Government. The attack on the camp east of Nampala on 19 July by Ansar Eddine and the National Alliance for the Protection of Fulani Identity and Restoration of Justice (ANSIPRJ) killed 17 soldiers, injured 30 others and led to the enforced disappearance of 6 members of the Malian Armed Forces. The constantly rising number of military victims is weighing on troop morale and stoking the perception that the Government is unable to protect communities, besides raising questions about the way the State cares for the families of killed and wounded soldiers.

19. By way of comparison with the preceding months, between October 2015 and March 2016, the Human Rights and Protection Division documented 7 attacks targeting international forces (MINUSMA, Barkhane forces and the European Union Training Mission in Mali), which resulted in the injury of three military personnel, as well as 4 attacks against Malian Armed Forces and symbols of the State, which resulted in 6 victims (2 dead and 4 injured), and 146 attacks against civilian targets, that caused 163 victims, of whom 159 were civilians. The increase in attacks against international and Malian forces is partly due to the counter-terrorism operations undertaken by the Barkhane forces and by the Malian Armed Forces. Attacks targeting civilians have remained at a constant level.

20. The Independent Expert heard a great deal about new armed groups, which have recently complicated the security situation. In June, a new political-military group, the National Alliance for the Protection of Fulani Identity and Restoration of Justice (ANSIPRJ), was established in the region of Mopti. This group's goal was to defend the Fulani community, although some existing Fulani associations disagreed with the establishment of the new movement. The group is thought to have disbanded in October. In Ménaka, a new armed group appeared, the Mouvement populaire pour le salut de l'Azawad, made up of dissidents of the CMA, which immediately entered into an alliance with the Groupe d'autodéfense des Touaregs Imghad et leurs alliés. The Mouvement

populaire has set up checkpoints in the vicinity of Gao and Ménaka, thus posing a threat to the civilian population and for the protection of human rights. The security situation is all the more volatile since the confrontations between the CMA and the Platform resumed in July.

21. The Independent Expert is concerned about the sense of insecurity that is felt among communities. The State's inability to protect them favours the emergence of self-defence groups and can sometimes even lead affected communities to seek the protection of jihadist groups. The current levels of popular discontent with the local authorities in the areas concerned should be taken very seriously. The Independent Expert has been told that in October, the transport trade unions of Gao and representatives of civil society organizations organized a 48-hour strike in protest at the Government's lack of response to repeated armed attacks along the road between Gao and Mopti. Moreover, the Collective of Civil Society Organizations sent the regional governor a memorandum informing him of a strike and of a blockade along the Gao to Mopti road from 20 to 25 November, in protest at the deterioration of the security situation along this artery.

22. In Timbuktu, boat transport workers also went on strike to protest at insecurity on the Timbuktu-Ber road. It has been suggested that this strike followed an incident on 19 October at Tindjambane (18 kilometres east of Timbuktu), in which two armed individuals attacked a fish vendor and stole his motorcycle and his goods. In the Timbuktu region, teachers demonstrated on three occasions against the insecurity in the region after two teachers were killed in a vehicle ambush along the Niafounké-Tonka road on 7 November. On 14 November in Timbuktu, demonstrators went to the Governor's office to request that Malian defence and security forces and MINUSMA provide protection on the roads. Similar protests were held in Goundam and Diré on the same day.

23. The Independent Expert was also informed of a violent protest that took place in the municipality of Konna, north of Mopti, on 26 March. According to witnesses, a crowd of more than 1,000 people, including women and children, staged a street demonstration to express their discontent at the deterioration of the security situation, and particularly at the increase in cattle theft and the lack of response from the authorities. Some of the crowd chased a few individuals thought to have been involved in the insecurity, as a result of which a 35-year-old man was killed and a local bar — allegedly used for illegal trafficking — was burned down.

C. The ongoing challenge of the fight against impunity

24. Having reviewed the development of the high-profile cases mentioned in his earlier reports, the Independent Expert finds that there has been no significant progress. Since 2012, at least 157 cases of human rights violations relating to the crisis in the north of the country and the coup d'état in Bamako have given rise to complaints lodged before the competent judicial authorities. However, the latter have been reluctant to open judicial investigations, which, once opened, tend to move at a very slow pace. Only the "Red Berets" case has seen any progress, with the opening on 30 November of the trial of Amadou Haya Sanago, head of the military junta of 2012, and 17 co-defendants, including high-ranking army officers, who face prosecution for the kidnapping and murder of 21 soldiers.

25. The Independent Expert notes that the proceedings instituted by 125 victims, including 40 survivors of sexual violence in Timbuktu, where a victims' association filed a complaint with the Timbuktu public prosecutor's office in November 2014, have yet to see any progress. However, some tentative advances had been made in cases of sexual violence related to the conflict. For some months, the judges overseeing these cases have been holding hearings, with the help of the Trust Fund for the protection of victims and witnesses and their access to justice.

26. Furthermore, the cases of 12 women victims of sexual violence have been considered by the judicial unit on terrorism in Bamako. However, the problem remains the distance between the victims and the only jurisdiction competent to hear them, located at

the judicial unit on terrorism in Commune III of Bamako. Victims' organizations would like to see the unit operating at the regional level, so that victims may be heard.

27. The Independent Expert regrets the slowness of judicial proceedings. He has not found any progress in the judicial proceedings involving military personnel, aside from the "Red Berets" murder case. In a previous visit, the Independent Expert had raised the issue of procedural red tape and the need to reform the Military Code. Cases followed up by the Independent Expert include that of a gang rape perpetrated in Sevaré in March 2015, in which it is alleged that the main instigator was a soldier, and that although the two civilians involved in the case had been detained under a committal order, the soldier appeared to enjoy complete impunity thanks to a special procedure established for persons with military status.

28. The Independent Expert notes that the functioning of the courts in the northern regions remains a problem. The Mopti court and five other jurisdictions in the region are operational, although the judges responsible for two *cercle* jurisdictions operate from Mopti, which causes difficulties for litigants. Five of the nine courts in the regions of Timbuktu and Gao are partially operational, while the Kidal court has remained completely closed since 2012.

29. The Independent Expert recalls that, since 2013, the Malian authorities have released approximately 220 persons arrested in connection with the conflict in the north of the country, chiefly at the request of armed groups in the framework of the confidence-building measures outlined in the peace agreement. According to some human rights organizations (the Malian Association for Human Rights and the International Federation for Human Rights Leagues), at least 46 of those freed were allegedly perpetrators of crimes against humanity, war crimes or other serious human rights violations. In the Gao region, several persons arrested and detained for their involvement in criminal acts resulting in civilian and military deaths (such as attacks on the Malian Armed Forces or planting of improvised explosive devices) have been released under pressure from armed groups.

30. The Independent Expert has taken note of the hearings that were held at the criminal courts in Bamako and Mopti throughout the month of May. Of the 180 cases heard, 16 concerned 45 persons accused of serious offences constituting human rights violations. However, of these 45 individuals, 32 were tried in absentia and most of them received the death sentence, which was subsequently commuted to life imprisonment.

31. In the fight against terrorism, however, there are signs of the impending operationalization of the specialized judicial unit, including the appointment of its chief on 12 September 2016. The order confirming the appointment of the remaining members of the unit, who have already been identified, is in the final stage of the administrative process. This operationalization should open up new prospects for the fight against terrorism.

32. The Independent Expert stresses the importance of supporting victims in their quest for justice, and has been pleased to announce that the trust fund programme of the Human Rights and Protection Division plans to assist 113 survivors of human rights violations and other victims of serious crimes related to the situation of armed conflict. The scarcity of funds needed for agencies of the United Nations system to implement care and psychosocial monitoring programmes remains a major challenge for the protection of these individuals.

33. On 30 November, an important milestone was reached in the fight against impunity for the most serious crimes committed in the north and the south of Mali since 2012, with the opening in Sikasso of the trial of Amadou Haya Sanogo and his co-accused, who face charges for their alleged role in the murder of the 21 "Red Berets" who disappeared on 30 April and 1 May 2012.

34. The Independent Expert welcomes the progress made in the operationalization of the Truth, Justice and Reconciliation Commission. The heads of regional offices, regional advisers and statement takers have all been recruited. There will be five subcommittees, responsible for gender, truth-seeking, victim support and reparation, awareness-raising and reconciliation, and studies, reports and documentation. On 18 May, the 10 new

commissioners, including five representatives of armed groups, were appointed by the Council of Ministers. The enlargement of the Commission from 15 to 25 members had been envisaged in the decree of the Council of Ministers of 31 December 2015. The Independent Expert is concerned about the lack of transparency in the negotiations that led to the appointment of those 10 new members. Nine of the 25 commissioners are representatives of the armed groups. The Independent Expert welcomes the steps taken by the United Nations with a view to the operationalization of the Commission and notes that the Human Rights and Protection Division, in collaboration with the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), is developing training modules to build capacity in the fight against conflict-related sexual violence. The effective start date for statement-taking activities has been announced as 1 December 2016. The Independent Expert wishes to emphasize that the Commission needs to put in place a more dynamic communications policy, since many of the persons he spoke with in Timbuktu said that they had been neither consulted nor involved in the process during the field visit of the Commission's delegation.

35. The Independent Expert welcomes the information exchange mechanism established in April between the Office of the Director of the Human Rights and Protection Division and the Ministry of Justice and Human Rights. Through this mechanism, the Human Rights and Protection Division submits cases of violations documented by human rights officers, and the Ministry issues responses, ensures follow-up and gives updates on corrective measures taken. The establishment of a human rights directorate within the Ministry, following the adoption of a national human rights policy on 7 September, is a positive development. The Independent Expert was able to verify that information is also exchanged between the Human Rights and Protection Division and judicial bodies at the regional level.

36. The Independent Expert welcomes the enactment on 17 July 2016 of the law establishing the National Human Rights Commission in Mali, which conforms with the principles governing national human rights institutions. The Commission will play an advisory role on human rights issues vis-à-vis the Government and parliament. The Independent Expert encourages this new body to take the appropriate steps for its accreditation by the Subcommittee on Accreditation of the International Coordinating Committee of National Human Rights Institutions. He hopes that close collaboration with the Network of Malian Parliamentarians for the Defence of Human Rights will lend impetus to the adoption and implementation of national policies and strategies for the promotion and protection of human rights in Mali.

37. The Independent Expert welcomes the opening in September 2016 of the historic trial of Ahmad Al Faqi Al Mahdi, the former head of Islamic morality police, at the International Criminal Court. On 27 September 2016, Al Mahdi was found guilty of a war crime for organizing the destruction of religious and historic buildings in Timbuktu in June and July 2012, and was sentenced to 9 years' imprisonment. The Independent Expert hopes that the trial will send a strong message against the looting and destruction of the cultural heritage throughout the world. However, he would also have wished to see Al Mahdi prosecuted in addition for crimes he was reported to have committed against civilians during the occupation of Timbuktu in 2012.

38. The Independent Expert wishes to congratulate civil society for the initiatives taken in the fight against impunity, in particular the drafting of a bill concerning the protection of witnesses and victims and support for victims' proceedings before the courts.

III. Human rights situation

A. Civil and political rights

39. The Independent Expert has received reports of incidents that have had a negative impact on human rights and the security situation, including asymmetric attacks on MINUSMA and the Malian forces, serious violent crime, use of improvised explosive devices and attacks on humanitarian relief organizations.

40. Between April and September 2016, 243 cases of human rights violations and abuses were recorded by the Human Rights and Protection Division, including 122 violations and 121 abuses, resulting in 628 victims. These figures were markedly higher than those from the previous period: between October 2015 and March 2016, the Division had recorded 109 violations and abuses, causing 355 victims. This increase in the number of human rights violations and abuses can be explained, in part, by the many cases of serious violent crime, conflicts between communities and lynching in State-controlled areas that go uninvestigated. The State is therefore responsible on grounds of omission. Lastly, it is worth noting the sporadic clashes between the CMA and the Groupe d'autodéfense des Touaregs Imghad et leurs alliés since July 2016, which have led to abuses against members of the warring Tuareg clans (mainly Ifoghas, Imghad and allied groups).

1. Human rights violations committed by the Malian armed forces

41. From April to September 2016, the Human Rights and Protection Division recorded a slight decrease in the number of arrests made by the Malian defence and security forces and their allies in connection with the conflict or terrorism (187 from April to September 2016 compared with 224 from October 2015 to March 2016). The proportion of arrests made on charges of terrorism remained the same (88 per cent). During that period, the Malian defence and security forces carried out counter-terrorism operations, particularly in the regions of Mopti and Ségou. In the course of those operations, they were reportedly involved in human rights violations, including arbitrary executions, inhuman and degrading treatment, acts of torture, illegal detentions, and one case of rape. The Malian authorities also allegedly committed violations through omission, owing to the lack of or slow investigation of incidents that constituted human rights violations.

42. The Independent Expert has been informed that the Malian armed forces were allegedly involved in three summary executions in Diabaly, in the region of Ségou, in the course of a military operation that began on 7 April. He has also received details of the case of a detainee who was tortured by members of the Malian armed forces when he was arrested following this counter-terrorism operation. The detainee reported that his neck was placed against the hot exhaust pipe of a four-wheel drive vehicle. The Human Rights and Protection Division has indicated that allegations of torture committed by the Malian armed forces during such operations have become more frequent. Another act of sexual violence was allegedly committed by a member of the armed forces at the Kourouma checkpoint during the night of 11 May. It is alleged that the soldier took the victim to his home and raped her. At the time of writing, the alleged perpetrator had not been questioned and no legal proceedings had been initiated.

43. The Independent Expert has been informed that, during the protests that took place in Gao on 12 July and in Bamako on 17 August, 3 persons were killed and more than 70 others injured owing to the authorities' excessive use of force. In Gao, the event was a protest against the setting up of interim authorities. In Bamako, a protest in support of a radio presenter in front of the court-house turned violent, as the protestors set fire to cars and the security forces used tear gas and fired real bullets. In view of those incidents, the Malian national police will need to demonstrate the strict professionalism required when using force against protestors.

44. On 30 May, the joint tactical group Elou, which is part of the Malian security forces, killed a 50-year-old civilian in Goundam. The victim belonged to the Tuareg Bella community and the incident occurred on the Doukouria road between Kaneye and Timbuktu. The Goundam gendarmerie has launched an inquiry into the incident, which is still continuing.

45. On 22 October, human rights experts from Mopti interviewed a member of the Fulani community who had been arrested on 25 September by the national guard in the village of Guidio, in the region of Mopti, on suspicion of being a terrorist. The detainee stated that he had been arrested on account of his physical appearance, namely his hair and long beard. The person was detained for about one month without being formally charged.

46. The international forces have extended their targeted counter-terrorism operation in the region of Kidal. Arrests in connection with the conflict are increasingly being carried

out by the forces deployed under operation Barkhane. The Independent Expert notes that allegations of arbitrary detentions and other human rights violations continue to be made against these forces. He has been informed that MINUSMA forces were allegedly involved in three cases of human rights violations and these allegations are currently being investigated by the National Investigations Officer and his team and by the MINUSMA Conduct and Discipline Team.

2. Human rights violations committed by armed groups

47. From April to September 2016, the Human Rights and Protection Division recorded 143 cases of deprivation of liberty by armed groups: the CMA, the Platform, Al-Qaida in the Islamic Maghreb (AQIM), Ansar Eddine, Movement for Unity and Jihad in West Africa and other unidentified armed groups. During the period under consideration, renewed armed clashes at irregular intervals between the signatory groups, the CMA and the Platform, led to a rise in the number of arrests of members of these groups. For the same period, the Human Rights and Protection Division recorded 31 arrests of suspected CMA or Platform combatants by the opposing group. All of them were released before the end of the period. Since 30 September, 13 identified members of armed groups and the Malian forces (5 from the Malian forces, 5 from the Platform, 2 from the CMA and 1 from the Movement for Unity and Jihad in West Africa) are still being detained by the CMA (6), the Platform (1), Ansar Eddine (5) and an unidentified group (1).

48. Moreover, the abductions and enforced disappearances attributed to armed groups in the regions of Mopti, Gao, Timbuktu and Kidal that were observed during the previous reporting periods continued during the period under review. At least 76 men, including 2 boys, were reportedly abducted between April and September 2016 (compared with 20 men and 3 boys between October 2015 and March 2016). According to the Human Rights and Protection Division, the latter included 5 members of the Malian armed forces abducted in Nampala since July 2016 by Ansar Eddine, 2 members of the CMA abducted by an unknown group (one was found dead and the other is still missing), 3 members of staff of the International Committee of the Red Cross who were abducted for six days by Ansar Eddine and 68 individuals, presumed to be civilians, who were abducted by the Platform (53), the CMA (2), AQIM (4), ANSIPRJ (1) and an unidentified armed group (8). By the end of the period, some 15 civilians remained victims of abduction by the Mouvement national de libération de l'Azawad (2), the Platform (2), AQIM (2) and an unidentified armed group (8).

49. Armed groups have been directly or indirectly involved in opportunistic attacks on civilian populations in the northern regions. These include ambushes carried out by unidentified armed groups targeting civilians along main roads, and attacks during market days or against military or government institutions or other symbols of the State. The setting up of checkpoints along these main roads by armed groups is not only a clear violation of the peace agreement but also a threat to the civilian population and to the protection of human rights. All the armed groups engage in such activities and the Independent Expert has been informed that at one point there were 20 CMA checkpoints in the region of Timbuktu. These checkpoints have become places where civilians are subjected to ransom and extortion. There have also been many incidents in which NGOs have been targeted. The Independent Expert has received several reports that individuals in vehicles presumed to be members of the Groupe d'autodéfense des Touaregs Imghad et leurs alliés broke into the World Food Programme warehouse in Kidal on 6 June and stole stocks equivalent to one month's humanitarian assistance. By the time of the Independent Expert's mission, the Comité de sécurité mixte de l'Azawad à Kidal (CSMAK) had not opened an investigation into the incident.

50. The involvement of armed groups in human rights abuses has been reported. These abuses, which have been attributed to the CMA, the Platform and other unidentified groups in Timbuktu, Gao and Kidal, mainly consist of extortion, arbitrary executions, ill-treatment and intimidation, according to the information brought to the attention of the Independent Expert. These acts are a blatant violation of the peace agreement and, as regards the joint patrols provided for in the agreement, these developments highlight the need for an

overhaul. The situation has also given rise to the large-scale displacement of civilian populations and looting of their property.

51. The Independent Expert has already had occasion to mention the extremist groups that attack the Malian authorities and the international forces and, increasingly often, commit acts of violence against civilians. He would also like to draw attention to some incidents that have occurred in the regions of Timbuktu and Mopti. On 7 and 8 August, the youth centre in Gossi, in the region of Timbuktu, was attacked during a concert organized by young people. A 17-year-old youth was killed and three others suffered bullet wounds. The violent extremist group in the region had openly expressed its disapproval of musical and social activities. On 9 August, the decapitated body of a 46-year-old member of the Berbiche community of Attorchane was found in the area. He had been abducted by three individuals, presumed to be members of this extremist group, during the night of 10 to 11 March 2016. On 14 September, a teacher of the Qur'an living in the region of Mopti was allegedly killed for his close ties with the Malian armed forces, having served as an interpreter during the arrest of a suspected jihadi.

52. These groups attack the Malian authorities, the security forces, the civilian population and the international forces. On 23 May, for example, an official of the Ministry of Water and Forests and his assistant were killed in Dialloube, in the region of Mopti, in the course of an attack by unidentified armed individuals on motorcycles. This official was the only government representative present in the commune of Dialloube.

B. Intercommunal and intracommunal conflicts

53. The Independent Expert remains concerned by the conflicts between and within communities and by the human rights violations, which pose a clear threat to the peace process. He has taken note of the serious incidents that occurred during the period concerned and the authorities have intervened in a number of conflicts to reduce tension.

54. The Independent Expert monitored the intercommunal conflict that broke out on 13 April in the village of Adjora, 50 km north of Gossi, in the region of Timbuktu, between the Ifoghas and Imouchag factions of the Tuareg community. Human rights NGOs confirmed that two members of the Ifoghas community were killed as a result of a long-standing land dispute between the two opposing Tuareg factions and several local authorities. According to the same sources, the perpetrators belonged to the Imouchag faction. Since that incident, the Haut Conseil pour l'unité de l'Azawad (an armed group linked to the Ifoghas community) and the Groupe d'autodéfense des Touaregs Imghad et leurs alliés have increased the number of combatants deployed in the village. Concerned by the possibility of a more violent confrontation, a delegation made up of administrative authorities from Ghourma *cercle* and the village of Adjora has held meetings with the leaders of the two communities to ease the tension and prevent the escalation of intercommunal violence.

55. Intercommunal violence in Malemana between the Fulani and Bambara communities began in April and intensified at the start of May, claiming 25 lives. The Government responded rapidly in an effort to contain and manage the situation by dispatching a ministerial delegation to the region, organizing an intercommunal meeting and arresting 37 suspects. It is essential that these initiatives should be followed by investigations and appropriate legal proceedings. In April, intercommunity violence reawoke a long-standing land dispute in Timbuktu. Opposing factions of the Tuareg community clashed, causing two armed groups to increase their military presence in the area. In another incident, six armed members of the Fulani community killed the third Deputy Mayor of the commune of Kareri and a Bambara youth leader. Four members of the Fulani community in Malemana were killed in retaliation. In June, there were two cases of intercommunal violence and one land dispute in Mopti, in which 18 persons were killed and 45 persons were injured.

56. The Independent Expert has been informed that on 9 November, seven persons were injured in an intercommunal conflict between the small farmers of the Dogon community in the village of Guinadio and the farmers of the Fulani community in the village of Lessagou, in the region of Mopti (four minors from the Dogon community and three minors from the

Fulani community). He is concerned by the claim that the gendarmerie did not investigate this incident. This situation has demoralized the local population and raised concerns about the State's readiness to protect civilians in the region.

57. The Independent Expert has been informed of other reprisals and tensions between the various groups, resulting in an embargo on the purchase of goods from opposing groups and seizure of their land. Measures of this kind have sometimes specifically targeted members of the Fulani community, who are suspected of encouraging and supporting terrorist attacks. Holding a reconciliation forum like the one described below could be an effective way to diffuse tension in this type of situation.

58. As regards measures taken to reduce these tensions between communities, the Independent Expert would like to mention the reconciliation forum that was held in Niono *cercle*, in Ségou, on 2 and 3 June 2016. This two-day forum was attended by over 800 persons, including the Prefect of Tenenkou *cercle*, the Mayor of Kareri, the head of the village of Malemana (accompanied by a delegation of more than 30 persons), the Governor of the region of Ségou, as well as representatives of civil society and of the Malian Government (Ministry of National Reconciliation and certain members of parliament). At the end of this event, the authorities of the commune of Kareri and the Bambara delegation from Malemana, led by the head of the village, apologized to the head of the village of Nampala and the victims' families that were present. A resolution was adopted to enable members of the Fulani and Bambara communities to move freely within the commune of Kareri. In addition, a recommendation was adopted regarding the prosecution of the perpetrators.

C. The situation of women

59. The Independent Expert has always paid special attention to the issue of violence against women. During his mission to Timbuktu, he spoke with victims in the region, whose access to legal remedies has not yet significantly improved. Only 12 women victims of sexual violence have been heard at the Bamako counter-terrorism unit, with support from the fund for access to justice and protection of victims and witnesses, administered by the Malian Human Rights Association and the International Federation for Human Rights Leagues. These organizations continue to speak out against the delays in legal proceedings. The Independent Expert has been informed that the Association des victimes de la répression des mouvements armés has filed three complaints with the Timbuktu *Tribunal de Grande Instance* (court of major jurisdiction) since 2015. However, according to those in charge of the Association, the court has taken no steps to investigate these complaints. The distant location of the only court that is competent to hear the victims, which is in Bamako, at the Commune III counter-terrorism unit, presents a significant impediment for the fight against impunity.

60. The Independent Expert has interviewed many victims, who have not filed complaints for fear of reprisals or stigmatization; this is another factor that contributes to impunity in the current situation in Mali. He wishes to emphasize that the decision to release the perpetrators of these violations, such as Houka Houka, a former Islamic judge, and Mohamed Mossa, the former Islamic police chief in charge of morality in the city of Timbuktu, who continue to live in the region, was not consistent with efforts to protect the rights of victims to justice and reparation.

61. As regards medical and psychosocial treatment and the socioeconomic reintegration of victims of conflict-related sexual violence, facilities are inadequate in Mali, especially in the north. With that in mind, the Independent Expert commends two initiatives financed by the MINUSMA quick impact project in Goundam and Timbuktu, and similar projects supported by national and international civil society that promote the economic empowerment and social reintegration of women affected by the conflict.

62. The Independent Expert notes that there is still no law on combating gender-based violence and that women continue to be at risk on account of such violence and harmful practices such as female circumcision, early and forced marriage, sexual slavery and rape.

It is vital that a law of this kind, defining rape as a criminal offence, be adopted and implemented.

64. In his previous report, the Independent Expert welcomed the Act of 18 December 2015, which introduced measures to promote gender equality in access to elective and appointive posts by establishing a quota of at least 30 per cent representation for each gender. He hopes that the decree bringing this Act into force will be adopted soon. Such a measure is important to ensure that women's needs and concerns are incorporated into various programmes. The Independent Expert encourages the Government to finalize the new strategic plan for 2016-2018 on the implementation of the national programme for gender equality.

64. One positive development was the participation of 25 military and political leaders of the Platform in a workshop organized by MINUSMA on conflict-related sexual violence, on 29 and 30 June. The outcome of this workshop was the signing of a unilateral communiqué by the President of the Platform emphasizing his commitment to combating conflict-related sexual violence. The Independent Expert also notes that the Platform has launched its action plan, the effective implementation of which will show that the various components of the Platform are committed to combating this type of violence.

65. The Independent Expert was shocked when he heard of the gang rape of a 15-year-old girl in August 2016 in Mopti. A complaint was filed by the family, but six of the seven suspects arrested by the gendarmerie were released in exchange for payment of a certain sum of money. The gendarmerie of Sevaré declared that the investigation had been closed for lack of evidence.

D. The situation of children

66. Children are direct and indirect victims of violence in Mali. The recruitment of child soldiers by armed groups, injury and death caused by unexploded ordnance or stray bullets, and lack of access to basic services due to insecurity are all forms of violence against children.

67. The Independent Expert notes that the presence of child soldiers in signatory armed groups was particularly noticeable following the confrontation that occurred in Kidal on 21 July. Four child soldiers sought refuge in the MINUSMA camp and were duly placed under the authority of the National Child Protection Office. Cases of child soldiers with bullet wounds have also been recorded in hospitals.

68. Some health-care workers involved in the polio vaccination campaign refused to travel to a village in Mopti in April, owing to the lack of security in the area. The Independent Expert was shocked by the discovery by MINUSMA, on 13 October, of a hidden stock of weapons, including ammunition and explosives, in a school in Gao that was being renovated by MINUSMA. The weapons were discovered in seven of the nine classrooms in a school in Tabankort, 120 km north of Gao.

69. The Independent Expert was sad to hear that many children had been killed or injured by unexploded ordnance or stray bullets. On 13 August, a 5-year-old girl was killed and three boys were injured while playing with an explosive remnant of war in Kidal. On 10 September, a 12-year-old student from the Dogon community was killed in Mopti by a stray bullet when a teacher of the Qur'an was assassinated. On 10 October, an 18-year-old boy was killed in Gao when he picked up an unexploded grenade to play with it. He died while being evacuated to the hospital in Gao. A 16-year-old boy suffered light face wounds in the same incident. In Timbuktu on 11 October, a 7-year-old boy was killed and a 9-year-old boy was seriously injured by an improvised explosive device in the village of Diemgo. The Independent Expert was concerned by information that he received concerning the presence of armed CMA members in four or five vehicles at the entrance to a health centre in Kidal. Under international humanitarian law, the presence of combatants in or near protected facilities such as hospitals and health centres is prohibited.

E. Prisons

70. The Independent Expert notes that in March 2016, the Ministry of Justice and Human Rights set up a working group to investigate conditions of detention. In May, poor conditions in prisons were exacerbated by hot weather, resulting in the death of five inmates of the central prison in Bamako. The Ministry reacted promptly and organized special hearings to reduce prison overcrowding.

71. The Independent Expert is particularly concerned by the growing number of detainees being held incommunicado by the Malian State security services and the international forces. At the end of September, there were 104 such detainees. The Independent Expert is very concerned by the fact that the Human Rights and Protection Division continues to be refused access to the premises of these two entities — the Barkhane forces and the intelligence services — despite his repeated calls, in previous reports, for such access to be granted.

72. The Independent Expert nevertheless welcomes the fact that, in September 2016, the Human Rights and Protection Division was granted access for the first time to the military detention facilities of the Malian defence and security forces in Gao.

73. The Independent Expert noted that the CSMAK coordinator in Kidal had given assurances that measures had been taken to ensure access to medical services for persons detained in local CSMAK facilities. Access to health care and adequate cell ventilation are issues that have been raised on several occasions by the Human Rights and Protection Division.

F. Refugees and internally displaced persons

74. The Independent Expert has been informed that there are still more than 135,000 Malians in refugee camps and that 36,700 persons are internally displaced. He has received reports that flows of refugees from Mali have continued, with the arrival of almost 2,000 refugees in Mbera, Mauritania, since mid-September. The refugees come from communes in Timbuktu (Goundam and Niafounké) and Ségou (Niono). They attribute their flight to a lack of security in their region of origin, arising from violent crime and terrorist activities. Internally displaced persons who arrived between 24 and 28 October in the nomadic villages of the commune of Tilemsi, in the region of Gao, feared the joint military operations led by the Barkhane forces and the Malian army near the Mauritanian border.

75. The Independent Expert notes that the families who left the village of Kareri after the Malemana incident in April and May and sought refuge in the region of Ségou are in need of humanitarian assistance. Months after their displacement, the families had still not received any support from national institutions or the humanitarian community.

76. The Independent Expert further notes that migrants have regularly been targeted and attacked while travelling through Mali. On 21 October, in the region of Gao, a truck carrying 70 migrants was attacked by unidentified armed persons driving a pickup truck on the road between Gao and Kidal, beyond Tabankort. The Independent Expert understands that it is not clear which armed groups control the area, which makes it difficult to identify the perpetrators of these acts. However, members of the Ganda Izo militia arrested the truck driver and took him to the gendarmerie in Gao, where an inquiry was opened. Even during the Independent Expert's visit to Mali, a truck carrying some 20 migrants was reportedly attacked on the road between Gao and Kidal on 11 November.

G. Economic, social and cultural rights

77. The Independent Expert notes that poverty and food insecurity rates are extremely high, especially in rural areas, but also in the south and in Bamako. He further notes that the number of persons affected by food insecurity rose steadily during the period under consideration. In September, a national review of food security and nutrition found that an

estimated 25 per cent of the Malian population continued to suffer from food insecurity. Around 500,000 persons were in need of immediate food aid.

78. Recurrent attacks on humanitarian workers are a hindrance to the delivery of humanitarian supplies. There was a spate of attacks of this kind in the region of Ménaka during the month of September of the period under review. Ambulance theft in the region of Timbuktu was another source of concern. In view of the increasingly frequent attacks on humanitarian workers and MINUSMA, some organizations have considered suspending their activities in Ménaka and Timbuktu.

79. The current climate of insecurity also hampers access to health services. In April, health-care workers involved in the polio vaccination campaign refused to travel to a village in Mopti on account of the lack of security in the region. In Timbuktu, a group of unidentified armed persons attacked a health centre in the commune of Garba-Koira and stole equipment and medicines. On 5 September, some armed men stole an ambulance in Timbuktu.

80. The Independent Expert welcomes the fact that Mali now has an independent human rights institution that is in compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). He notes that this institution could play an essential part in protecting economic, social and cultural rights by offering advice and issuing recommendations to the Government, to remind the latter of its obligations under international law.

IV. Conclusions and recommendations

A. Conclusions

81. The Independent Expert has observed that the security situation in northern Mali is extremely volatile, with fatal clashes breaking out once more between the groups that signed the peace agreement in July 2015. He also notes that new armed groups have emerged and that bandits and rogue elements of armed groups are active in the centre of the country. The human rights situation in Mali has worsened as a result. The thefts and attacks to which humanitarian workers are subjected on an almost weekly basis are having an adverse effect on the supply of humanitarian assistance to the population.

82. The activities of extremist groups in the centre of Mali are a source of concern. Attacks are increasingly bold and sophisticated. The Independent Expert notes that a suicide bomber was killed on 10 October in the city of Timbuktu in a failed attack on MINUSMA peacekeepers, within 1 kilometre of the MINUSMA camp. The suicide bomber approached a MINUSMA patrol convoy on the main street, near the hospital and municipal stadium of Timbuktu, which is an area of the city that is heavily populated. On 30 November, there was a suicide attack on Gao airport. This situation poses a threat to the security of Mali and the surrounding region and is detrimental to the enjoyment of all human rights. The Independent Expert notes that the attacks target the Malian defence and security forces, State institutions and MINUSMA contingents. The security situation in central and northern Mali remains unstable.

83. The insufficient presence of Malian security forces outside Bamako and the main cities is a source of concern. This weak security presence, coupled with widespread poverty and inequalities, allows terrorism to flourish. In previous reports, the Independent Expert had highlighted that the extremist group aspect of the security situation in Mali was highly complex and extended beyond the country's borders. In his view, the international community and other countries in the region should help Mali to develop a comprehensive, holistic approach to the issue of security.

84. The Independent Expert wishes to emphasize that, in order to establish lasting peace, it is necessary to end the impunity surrounding both past and present human rights violations and abuses. A strategy must be developed to ensure that perpetrators

of human rights violations, including State agents, are systematically investigated and prosecuted.

85. The Independent Expert notes that it is absolutely vital to restore the authority of the State in Mali. He has been informed that in the commune of Djebock in Gao, the Groupe d'autodéfense des Touaregs Imghad et leurs alliés operates a detention centre, to which the Human Rights and Protection Division of MINUSMA was refused access in May. On the other hand, a leader of the Groupe d'autodéfense des Touaregs Imghad et leurs alliés has reportedly been appointed to resolve trade disputes and disagreements through mediation and friendly negotiations, while a marabout in Tamkoutat has been given jurisdiction over criminal matters. The marabout is supposed to resolve such matters in accordance with the sharia. The Independent Expert was already aware of the involvement of traditional or religious "judges" who review civil, judicial and religious matters in accordance with Islamic law in certain regions of Gao where there are no secular judicial authorities. In areas controlled by armed groups, these traditional judges can hardly be said to be truly independent.

86. The Independent Expert notes that international partners are committed to helping to build the capacities of Malian institutions with respect to human rights protection. The efforts made in Mali by MINUSMA, the United Nations country team and other actors are encouraging. They are working to help protect civilians and restore State authority and to combat chronic malnutrition. This support is also available at the regional level, especially through the work of the Group of Five for the Sahel, the Economic Community of West African States and the African Union. Other positive signs include the unbroken ceasefire since mid-September and a decrease in the numbers of human rights violations and abuses in recent months. The Independent Expert urges all parties to the peace agreement to renew their commitment to implementing it fully, and in particular its provisions relating to human rights.

B. Recommendations

87. The Independent Expert reiterates his previous recommendations and puts forward the recommendations set out below.

88. The Independent Expert recommends that the Malian authorities should:

(a) Take steps to ensure that the counter-terrorism unit of Commune III is operational outside the capital, enabling victims to be heard and to exercise their right to justice, and helping to combat impunity;

(b) Ensure the transparency of investigations, disciplinary procedures and proceedings concerning members of security forces who are alleged to have been involved in human rights violations. The Ministry of Defence and the security forces should keep records and publish regular reports on allegations of human rights violations and abuses committed by soldiers and on the number of soldiers subject to disciplinary or legal action;

(c) Take all possible measures to ensure that the growth in gross domestic product leads to a proportional decrease in the poverty rate. The Independent Expert recommends that no effort be spared by the Government in this regard;

(d) Make sure that the parliamentary network for the defence of human rights liaises with NGOs and other national human rights actors and political parties to raise awareness and develop human rights information strategies. In particular, the network should make full use of the parliamentary procedure to carry out its human rights monitoring role;

(e) Make sure, in collaboration with the international forces, that all measures taken by these forces are in conformity with their obligations under international law. In this connection, the Independent Expert commends the Malian

Government and the international forces for paying close attention to signs of intolerance and remaining vigilant with regard to extremism;

(f) Make sure that the security forces receive training on crowd control and management and that State authorities take into account the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, which were adopted by the eighth United Nations Congress on Crime Prevention and Criminal Justice for the benefit of law enforcement officials and other actors such as judges, public prosecutors, lawyers, representatives of the executive and legislative branches, and the public at large.

89. **The Independent Expert recommends that armed groups should:**

(a) Duly note the provisions of international human rights law and international humanitarian law on the rights of the child and, in particular, the involvement of children in armed conflict, which stipulate that armed groups should not, under any circumstances, recruit or use in hostilities persons under the age of 18 years;

(b) Comply with the provisions of article 7 (5) of the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, which directly concern armed groups. Under these provisions, armed groups are prohibited from forcibly recruiting persons, kidnapping, abduction or hostage-taking, engaging in sexual slavery and trafficking in persons, especially women and children.

90. **The Independent Expert recommends that the international community should:**

(a) Assist the Malian authorities in prosecuting the perpetrators and instigators of violence and violations of human rights and international humanitarian law, as a means of combating impunity;

(b) Provide financial and technical assistance to support the authorities in their efforts to build the judiciary's capacity to meet its obligations;

(c) Continue to provide financial and technical assistance and support to help victims of human rights violations and, in particular, to enable victims of sexual violence to receive appropriate medical care, counselling and reparation.